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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION  
13

14 GONG.IO, INC.,  
15 Plaintiff,  
16 v.  
17 HYPERDOC INC. d/b/a RECALL.AI,  
18 Defendant.  
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Case No. 5:25-cv-1026-NW

**NOTICE OF MOTION AND  
DEFENDANT'S MOTION TO DISMISS  
THE COMPLAINT PURSUANT TO 35  
U.S.C. § 101 AND FED. R. CIV. P.  
12(B)(6); MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT  
THEREOF**

Judge: Hon. Noël Wise  
Date: October 1, 2025  
Time: 9:00 a.m.  
Dept.: Courtroom 3 – 5th Floor

**NOTICE OF MOTION AND MOTION**

PLEASE TAKE NOTICE that on October 1, 2025, at 9:00 a.m., in the courtroom of the Honorable Noël Wise at the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113, Defendant Hyperdoc Inc. d/b/a Recall.ai (“Recall.ai”) shall and hereby does move the Court to dismiss Plaintiff’s Complaint with prejudice, pursuant to 35 U.S.C. § 101 and the Federal Rule of Civil Procedure 12(b)(6).

This Motion is based on this Notice, the supporting Memorandum and Points of Authorities, the supporting declaration of Joyce C. Li and accompanying exhibits, any reply briefing and supporting declarations and exhibits in further support of this Motion, and any other written or oral argument that Recall.ai may present to the Court in support of this Motion.

Dated: June 16, 2025

MORRISON & FOERSTER LLP

By: /s/ Timothy Chen Saulsbury  
Timothy Chen Saulsbury

*Attorney for Defendant*  
HYPERDOC INC. D/B/A RECALL.AI

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## I. INTRODUCTION

Gong alleges that Recall.ai infringes U.S. Patent No. 9,699,409 (“the ‘409 patent”). The ‘409 patent is about having a “virtual participant” join a virtual conference (such as a phone or video conference) to record it. The virtual participant is not a human, but computer software. As detailed below, Gong’s Complaint should be dismissed in its entirety for two independent reasons.

**First**, the Complaint should be dismissed under Federal Rule of Civil Procedure 12(b)(6) because the only claim Gong specifically addresses in the Complaint (claim 1) is invalid under 35 U.S.C. § 101. The claim merely implements the abstract idea of recording virtual conferences with virtual participants using conventional computing tools, and thus is patent-ineligible under § 101. Indeed, the purported point of novelty of the claimed invention is that the virtual participants are “register[ed] . . . with the conferencing system as co-participants in the virtual conferences *by emulating human interactions with a graphical user interface*”—which literally describes using a computer to automate actions previously done by a human. This quintessential “do it on a computer” limitation is itself abstract and cannot make the claimed invention patent-eligible.<sup>1</sup>

The abstractness of claim 1 is even more pronounced under the broad reading of claim 1 that Gong must adopt to assert infringement, which essentially reads out the “registering . . . *by emulating human interactions with a graphical user interface*” limitation. Not only is that limitation the alleged point of novelty of the claim, but it is the only language in the claim that even begins to describe how the abstract idea is implemented. Because Recall.ai’s technology works in a fundamentally different way, Gong has been forced to rely on an interpretation of claim 1 that is so broad that it renders the “emulating” limitation meaningless. Gong’s infringement allegations thus firmly establish that claim 1 (and the claims that depend from it) are patent-ineligible under § 101.

**Second**, Gong fails to state a claim of infringement under Rule 12(b)(6), because its Complaint demonstrates that the accused technology does not register virtual participants with

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<sup>1</sup> Emphasis added throughout unless otherwise noted.

1 conferences by “emulating human interactions with a graphical user interface.” Gong’s  
 2 infringement claim rests on an interpretation of “emulating human interactions with a graphical  
 3 user interface” that is so broad as to encompass use of an *application programming* interface—an  
 4 interface that a human never interacts with and has no graphical component whatsoever. That is a  
 5 facially implausible interpretation of the claim language, which cannot save Gong’s claims from  
 6 dismissal.

## 7 **II. RELEVANT FACTUAL BACKGROUND**

### 8 **A. The ’409 Patent**

9 The ’409 patent describes systems and methods for recording web conferences. Dkt. 1,  
 10 Ex. A (’409 patent). The Complaint addresses only claim 1, which reads:

11 1. A method of conference recording, comprising the steps of:  
 12 identifying a plurality of virtual conferences being operated by a  
 13 conferencing system connected to a communications network, the  
 14 virtual conferences having human participants;  
 15 executing a plurality of virtual participant processes in a processor;  
 16 *registering the virtual participant processes with the conferencing*  
 17 *system as co-participants in the virtual conferences by emulating*  
 18 *human interactions with a graphical user interface; and*  
 19 recording information streams of the human participants using the  
 20 virtual participant processes.

21 ’409 patent, claim 1. Notably, and as discussed further below, claim 1 requires the virtual  
 22 participant processes to “register[] . . . with the conferencing system as co-participants” (i.e., join  
 23 the conference) “by emulating human interactions with a graphical user interface.”

### 24 **B. Recall.ai’s Accused Technology**

25 Recall.ai offers an application programming interface (“API”). As Gong states in the  
 26 Joint Initial Case Management Statement, “an API allows one program to request that another  
 27 perform a certain action without needing details on how that will be accomplished.” Dkt. 24 at 2  
 28 n.1. Recall.ai’s API allows software developers to create software that makes requests to various  
 videoconferencing platforms (among other things).

### 1 **III. THE ASSERTED PATENT IS INELIGIBLE UNDER 35 U.S.C. § 101**

2 The Complaint should be dismissed because claim 1 (the only claim addressed in the  
3 Complaint) is patent-ineligible under § 101 for claiming an unpatentable abstract idea. In  
4 addition, because claim 1 is representative of its unasserted dependent claims 2-12, those claims  
5 are patent-ineligible for the same reasons as claim 1.

#### 6 **A. Legal Standard**

7 The Supreme Court has articulated a two-step test for examining patent eligibility under  
8 § 101. *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 217-18 (2014). “Under this ‘*Alice*’ test, a  
9 claim falls outside § 101 if (1) it is directed to a patent-ineligible concept like an abstract idea,  
10 and (2) it lacks elements sufficient to transform the claim into a patent-eligible application.”  
11 *Hawk Tech. Sys., LLC v. Castle Retail, LLC*, 60 F.4th 1349, 1356 (Fed. Cir. 2023). “Patent  
12 eligibility may be resolved on a Rule 12(b)(6) motion where the undisputed facts, considered  
13 under the standards required by that Rule, require a holding of ineligibility under the substantive  
14 standards of law.” *Hawk Technology*, 60 F.4th at 1356 (cleaned up). Indeed, the Federal Circuit  
15 has “repeatedly affirmed § 101 rejections at the motion to dismiss stage, before claim  
16 construction or significant discovery has commenced.” *Cleveland Clinic Found. v. True Health*  
17 *Diagnostics LLC*, 859 F.3d 1352, 1360 (Fed. Cir. 2017); *see also Genetic Techs. Ltd. v. Merial*  
18 *L.L.C.*, 818 F.3d 1369, 1373–74 (Fed. Cir. 2016) (“We have repeatedly recognized that in many  
19 cases it is possible and proper to determine patent-eligibility under 35 U.S.C. § 101 on a Rule  
20 12(b)(6) motion.”).

#### 21 **B. *Alice* Step One: Claim 1 Is Directed to the Abstract Idea of Recording** 22 **Virtual Conferences Using Virtual Participants**

23 Claim 1 of the ’409 patent describes a method of recording virtual conferences using  
24 “virtual participant processes.” The claim describes the steps of the method in broad functional  
25 terms: “identifying a plurality of virtual conferences . . . ;” “executing a plurality of virtual  
26 participant processes . . . ;” “registering the virtual participant processes with the conferencing  
27 system...by emulating human interactions with a graphical user interface;” and “recording the  
28 information streams of the human participants using the virtual participant processes.” As the



1 '409 patent specification acknowledges, the virtual participant of the claimed method is simply  
 2 doing tasks that have long been done by humans:

3 A virtual participant emulates a human attendee, logging into a  
 4 meeting supported by a conventional videoconferencing program.  
 5 The virtual participant is tasked with listening, storing, aggregating  
 and organizing a stream [of] multimedia data that is presented by  
 the participants during the virtual conference.

6 '409 patent at 1:46-51. In other words, the virtual participant automates the tasks traditionally  
 7 done by a human participant—joining a meeting and recording the information presented at the  
 8 meeting. This is a quintessential “do it on a computer” claim, which courts have repeatedly found  
 9 directed to an abstract idea under step one of the *Alice* test.

10 For example, in *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, the Federal Circuit found  
 11 the asserted patent claim directed to the abstract idea of “providing out-of-region access to  
 12 regional broadcast content.” 838 F.3d 1253, 1258 (Fed. Cir. 2016). The Court found that humans  
 13 had long engaged in the practice of conveying regional content to out-of-region recipients and  
 14 that practice could “be implemented in myriad ways ranging from the low-tech, such as by  
 15 mailing copies of a local newspaper to an out-of-state subscriber, to the high-tech, such as by  
 16 using satellites to disseminate broadcasts of sporting events.” *Id.* Although the asserted claim  
 17 refers to components such as “a cellular phone, a graphical user interface, and a downloadable  
 18 application, the claimed invention is entirely functional in nature.” *Id.* “There is nothing in [the  
 19 asserted claim] that is directed to *how* to implement out-of-region broadcasting on a cellular  
 20 telephone. Rather, the claim is drawn to the idea itself.” *Id.* Moreover, the Court held that the  
 21 claim was not any less abstract because it required the content to be delivered to cellphones,  
 22 because that limitation merely “confine[s] the abstract idea to a particular technological  
 23 environment—in [that] case, cellular telephones.” *Id.* at 1258-59.

24 As another example, in *Hawk Technology*, the Federal Circuit found claims “directed to a  
 25 method of receiving, displaying, converting, storing, and transmitting digital video ‘using  
 26 result-based functional language’” are directed to the abstract idea of storing and displaying  
 27 video. 60 F.4th at 1356-57 (citation omitted). The Court rejected the patentee’s argument that  
 28 the claims were instead directed to a solution to a technical problem (“conserving bandwidth

1 while preserving data”), because the claims do not explain how the alleged solution is achieved.  
 2 *Id.* at 1357-58.

3 Claim 1 of the ’409 patent is analogous to the claims at issue in *Affinity Labs* and *Hawk*  
 4 *Technology*. Claim 1 is directed to the abstract idea of recording virtual conferences using virtual  
 5 participants. Like providing out-of-region access to regional broadcast content, humans have  
 6 long engaged in the practice of recording virtual conferences (e.g., phone or video conferences),  
 7 and that practice can be implemented in myriad ways—ranging from low tech (e.g., taking down  
 8 notes with a pen and paper) to high-tech (e.g., using recording software to record the participants’  
 9 video and audio streams). *See Affinity Labs*, 838 F.3d at 1258. That the claim requires the  
 10 recording to be done by “virtual participant processes” does not make the claim any less abstract:  
 11 like the requirement in *Affinity Labs* that content be delivered to cellphones, requiring the  
 12 recording to be done by virtual participant processes merely confines the abstract idea to a  
 13 particular technological environment—in this case, virtual machines.<sup>2</sup> *See id.*

14 Moreover, like the claims in *Affinity Labs* and *Hawk Technology*, claim 1 is written in  
 15 functional language and does not explain **how** the videoconference is recorded using virtual  
 16 participants. *See id.*; *Hawk Technology*, 60 F.4th at 1357-58. Nor does the claim explain how to  
 17 go about “identifying a plurality of virtual conferences,” “executing a plurality of virtual  
 18 participant processes,” or “recording information streams of the human participants using the  
 19 virtual participant processes.” ’409 patent, claim 1. Although the claim states that the virtual  
 20 participant processes are “register[ed] . . . with the conferencing system . . . by emulating human  
 21 interactions with a graphical user interface,” it does not explain how such “emulating” is done.  
 22 *Id.* The claimed invention thus boils down to: use a computer program to record virtual  
 23 conferences by having the computer program join the virtual conferences like a human—“a mere  
 24 implementation of an abstract idea.” *See Hawk Technology*, 60 F.4th at 1358.

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25  
 26  
 27 <sup>2</sup> The ’409 specification explains that “executing a virtual participant process is accomplished by  
 28 spawning a virtual machine in the processor and executing the virtual participant process in the  
 virtual machine.” ’409 patent at 1:66-2:2. As this section of the specification makes clear, a  
 “virtual participant process” is simply a computer program that is run (executed) in a particular  
 computing environment (a virtual machine).

Claim 1 of the '409 patent is thus clearly distinguishable from claims that have been found directed to “a specific improvement to the ways computers operate.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016). The Federal Circuit has found software inventions to be patent-eligible “where they have made non-abstract improvements to existing technological processes and computer technology.” *Koninklijke KPN N.V. v. Gemalto M2M GmbH*, 942 F.3d 1143, 1150 (Fed. Cir. 2019) (collecting cases). For example, in *Koninklijke*, the court found the claims at issue directed to “a non-abstract improvement in an existing technological process (i.e., error checking in data transmissions).” *Id.* at 1150. The court noted that, “[i]mportantly, the claims do not simply recite, without more, the mere desired result of catching previously undetectable systematic errors, but rather *recite a specific solution for accomplishing that goal*—i.e., by varying the way check data is generated by modifying the permutation applied to different data blocks.” *Id.* at 1151.

Similarly, in *McRO, Inc. v. Bandai Namco Games America Inc.*, the Court found the asserted claims directed to “a specific asserted improvement in computer animation, i.e., the automatic use of rules of a particular type.” 837 F.3d 1299, 1314 (Fed. Cir. 2016). The claimed invention in *McRO* did not simply automate the process previously performed by human animators—because that process did not “evaluate sub-sequences, generate transition parameters or apply transition parameters to create a final morph weight set” as required by the claimed rules. *Id.* The court thus concluded that “[i]t is the incorporation of the claimed rules, not the use of the computer, that improved the existing technological process by allowing the automation of further tasks.” *Id.* (citation omitted).

Claim 1 of the '409 patent does not recite a specific solution that improves computer technology. Unlike the claim in *Koninklijke*, claim 1 of the '409 patent simply recites the desired result—using computer programs (virtual participant processes) to record virtual conferences—without reciting a specific solution for accomplishing that goal. *See Koninklijke*, 942 F.3d at 1150-51. As discussed above, the claim is written in functional language and does not explain *how* the virtual participant processes are used to record the conference. Indeed, the only limitation in the claim that provides any information about how the claim step is performed—

1 “registering . . . by emulating human interactions with a graphical user interface”—simply  
 2 describes using a computer to automate what was previously done by humans. A human registers  
 3 for a virtual conference by interacting with a graphical user interface—e.g., by clicking the “Join  
 4 Meeting” button to join a Zoom meeting. The “emulating” claim limitation literally requires  
 5 using a computer to perform the same actions. The Federal Circuit makes clear that such  
 6 requirements do not render a claim patentable, because “mere automation of manual processes  
 7 using generic computers does not constitute a patentable improvement in computer technology.”  
 8 *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017) (finding claims  
 9 directed to the abstract idea of processing an application for financing a purchase and analogous  
 10 to prior cases where “the focus of the claims is not on such an *improvement in computers as*  
 11 *tools*, but on certain independently abstract ideas that *use computers as tools*” (citation omitted)).

12 Claim 1 of the ’409 patent is also clearly distinguishable from the claim addressed in  
 13 *McRO*. Whereas the claim in *McRO* described a process that was different from and improved  
 14 upon the process previously used by human animators—by setting forth specific rules for what  
 15 parameters to use and how those parameters are applied—claim 1 of the ’409 patent exactly  
 16 mirrors the process that a human would use to record a virtual conference. *See McRO*, 837 F.3d  
 17 at 1314. The claim simply swaps the human participant for a computer program (a “virtual  
 18 participant process”). The computer program even joins the virtual conference in the same  
 19 manner as a human participant (“by emulating human interactions with a graphical user  
 20 interface”). Claim 1 thus raises the preemption concerns central to § 101 that the claim in *McRO*  
 21 avoids. *Id.* at 1314 (“The preemption concern arises when the claims are not directed to a specific  
 22 invention and instead improperly monopolize ‘the basic tools of scientific and technological  
 23 work.’”) (citation omitted). In *McRO*, “[t]he specific structure of the claimed rules would prevent  
 24 broad preemption of all rules-based means of automating lip synchronization.” *Id.* at 1315. The  
 25 same cannot be said for claim 1 of the ’409 patent—which would broadly preempt all means of  
 26 recording virtual conferences using virtual participants that join meetings like humans.

27 The preemption concern is even greater in view of Gong’s expansive reading of claim 1  
 28 for infringement, which effectively eliminates the only limitation with any detail about how a step

1 is performed: “registering the virtual participant processes with the conferencing system...*by*  
 2 *emulating human interactions with a graphical user interface.*” ’409 patent, claim 1. As  
 3 detailed in Section IV below, the Complaint makes clear that Recall.ai’s accused technology does  
 4 not cause virtual participants to join virtual conferences “by emulating human interactions with a  
 5 *graphical user* interface”—but instead does so by using an *application programming* interface  
 6 (API). *See infra* Section IV; Dkt. 1 ¶¶ 25, 41. The Complaint further establishes that an API is  
 7 an interface that no human interacts with and that has no graphical component, because it is  
 8 meant to be used by a computer program. *See infra* Section IV; Dkt. 1 ¶¶ 21-22. Yet, to plead  
 9 infringement, Gong reads “emulating human interactions with a graphical user interface” broadly  
 10 enough to encompass use of an API. Not only is this interpretation facially implausible (*see infra*  
 11 Section IV), the effective result of Gong’s interpretation is to eliminate the “emulating” limitation  
 12 entirely. If “*human* interactions with a *graphical user* interface” can be “emulated” by  
 13 machine-to-machine computer operations that *cannot* be performed by a human and involve *no*  
 14 interaction with any graphical component, the limitation is so broad as to be rendered  
 15 meaningless. The scope of claim 1 would then expand to cover the abstract idea entirely—  
 16 preempting all approaches to recording virtual conferences using virtual participants. Such a  
 17 claim is clearly directed to an abstract idea under *Alice* step one.

### 18 C. *Alice* Step Two: Claim 1 Lacks an Inventive Concept

19 Under *Alice* step two, the court considers the claim elements—individually and as an  
 20 ordered combination—to assess whether they transform the nature of the claim into a patent  
 21 eligible application of the abstract idea. *Hawk Technology*, 60 F.4th at 1358. “Merely reciting  
 22 the use of a generic computer or adding the words ‘apply it with a computer’ cannot convert a  
 23 patent-ineligible abstract idea into a patent-eligible invention.” *Two-Way Media Ltd. v. Comcast*  
 24 *Cable Commc’ns, LLC*, 874 F.3d 1329, 1338 (Fed. Cir. 2017).

25 Nothing in claim 1 of the ’409 patent converts the abstract idea (recording virtual  
 26 conferences with virtual participants) into a patent-eligible invention. The components recited in  
 27 the claim—“virtual conferences being operated by a conferencing system connected to a  
 28 communications network,” “virtual participant processes” that are executed “in a processor,” and

1 a “graphical user interface”—are generic computing components. The specification confirms  
 2 this. The specification states that “the inventive system is operable, *mutatis mutandis*, with many  
 3 **conventional web conferencing software products**,” and “[t]he term ‘network’ is intended to  
 4 represent any of a variety of **conventional network topologies and types** . . . , employing any of a  
 5 variety of **conventional network protocols**.” ’409 patent at 4:43-47, 5:39-40. The specification  
 6 also explains that the claimed system “typically comprises one or multiple interconnected **general**  
 7 **purpose or embedded computer processors** in one or multiple computers, which are programmed  
 8 with suitable software for carrying out the functions described hereinbelow.” *Id.* at 4:59-63.  
 9 Indeed, the specification expressly states that “well-known circuits, control logic, and the details  
 10 of computer program instructions for conventional algorithms and processes have not been shown  
 11 in detail in order not to obscure the general concepts unnecessarily.” *Id.* at 4:4-7. In other words,  
 12 the specification purposely omits implementation details for the computing components used in  
 13 the claimed invention because they are so well known and conventional. Such generic computing  
 14 components cannot provide an inventive concept under *Alice* step two. *See Affinity Labs*,  
 15 838 F.3d at 1265 (limitations describing “purely conventional features of cellular telephones and  
 16 the applications that enable them to perform particular functions” did not supply an inventive  
 17 concept); *Hawk Technology*, 60 F.4th at 1358-59 (no inventive concept from claim limitations  
 18 that only required “‘off-the-shelf, conventional computer, network, and display technology for  
 19 gathering, sending, and presenting the desired information’” (citation omitted)); *Two-Way Media*,  
 20 874 F.3d at 1339 (no inventive concept from claim limitations that only required “conventional  
 21 computer and network components operating according to their ordinary functions”).

22 Nor is there any inventive concept in the ordered combination of the elements in claim 1  
 23 of the ’409 patent. The ’409 patent specification acknowledges that recording virtual conferences  
 24 was well known and conventional in the prior art. In the “Background of the Invention” section,  
 25 the specification explains that “[t]he need to document virtual meetings has been recognized” and  
 26 incorporates by reference U.S. Patent Application Publication No. 2015/0244749 (“the “’749  
 27 Application”) as an example of existing technology. The ’749 Application states that  
 28 “[c]onventional solutions enable users to record audio or video from the meeting.” Declaration

of Joyce C. Li Submitted Herewith (“Li Decl.”), Ex. 1 ¶ 5.<sup>3</sup> Moreover, during prosecution, the examiner identified prior art that specifically taught using a virtual participant to record virtual meetings. Ex. 2 (Jan. 23, 2017 Non-Final Rejection) at 2 (the prior art discloses “video sessions and video chats, where during a video session, the audio from a sender is recorded and stored,” and that “an additional *virtual participant is connected that would listen and record* what the other participants in audio sessions in a server”). Claim 1 of the ’409 patent thus follows the expected and conventional ordering of steps to record virtual conferences with virtual participants—first identifying virtual conferences, then creating virtual participants, then registering the virtual participants with the conferences and recording them. There is no inventive concept in that ordering sufficient to make the claim patent-eligible. *See Two-Way Media*, 874 F.3d at 1339 (no inventive concept in the ordered combination of the claim elements where “[t]he claim uses a conventional ordering of steps—first processing the data, then routing it, controlling it, and monitoring its reception—with conventional technology to achieve its desired result.”). Rather, the claim “merely recit[es] an abstract idea performed on a set of generic computer components.” *Id.*; *see also Hawk Technology*, 60 F.4th at 1359 (finding no inventive concept in the ordered combination of the claim elements).

Because claim 1 (the only claim asserted in the Complaint) is directed to an abstract idea and lacks an inventive concept sufficient to transform the claim into a patent-eligible invention, the claim is ineligible under § 101. Gong’s Complaint should thus be dismissed in its entirety.

#### **D. Claim 1 Is Representative of Unasserted Dependent Claims 2-12**

A claim may be considered representative of a group of claims for purposes of assessing eligibility under § 101 if the group of claims are “‘substantially similar and linked to the same’ ineligible concept.” *Mobile Acuity Ltd. v. Blippar Ltd.*, 110 F.4th 1280, 1290 (Fed. Cir. 2024) (citation omitted). Claim 1 is representative of its unasserted claims 2-12. Claims 2-12 depend from claim 1 and are directed to the same abstract concept—recording virtual conferences with

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<sup>3</sup> The Court may take judicial notice of the ’749 Application and the prosecution history of the ’409 Patent (Li Decl., Exs. 1-4) because they are documents issued by the U.S. Patent and Trademark Office and thus a public record. *Lexos Media IP, LLC v. eBay Inc.*, 722 F. Supp. 3d 1042, 1049 (N.D. Cal. 2024) (“Courts may . . . take judicial notice of documents issued by the PTO, including a patent’s prosecution history.”)



virtual participants. Claims 2-12 simply recite additional functionality associated with the virtual participant processes and conferencing system using conventional computing components. Claims 2 and 11 add additional limitations regarding how the virtual participant processes are executed and registered. Claims 3-6 add a “recording component process” that “is cooperative with” the virtual participant processes and describe additional functionality provided by the recording component. Claims 7-9 and 12 describe additional functionality provided by the virtual participant processes. Claim 10 recites additional functionality provided by the conferencing system. Claim 1 is thus representative of claims 2-12 and those claims are invalid under § 101 for the same reasons as claim 1. *See Never-Search, Inc. v. Microsoft Corp.*, No. 24-CV-03950-RFL, 2025 WL 943228, at \*1-2 (N.D. Cal. Feb. 28, 2025) (finding a claim representative of its dependent claims where they “merely tack on generic computer components or introduce conventional computer activities,” and finding another claim representative of its dependent claims where they “simply recite additional limitations about receiving and displaying information”).

#### IV. GONG FAILS TO STATE A CLAIM OF INFRINGEMENT

The Complaint should be dismissed for a second, independent reason: Gong has failed to state a plausible claim of infringement under Rule 12(b)(6).

##### A. Legal Standard

To survive a Rule 12(b)(6) motion, a complaint for patent infringement must “place the alleged infringer ‘on notice of what activity . . . is being accused of infringement.’” *Lifetime Indus., Inc. v. Trim-Lock, Inc.*, 869 F.3d 1372, 1379 (Fed. Cir. 2017) (alteration in original) (quoting *K-Tech Telecomms., Inc. v. Time Warner Cable, Inc.*, 714 F.3d 1277, 1284 (Fed. Cir. 2013)). “[A] plaintiff cannot assert a plausible claim for infringement under the *Iqbal/Twombly* standard by reciting the claim elements and merely concluding that the accused product has those elements.” *Bot M8 LLC v. Sony Corp. of Am.*, 4 F.4th 1342, 1353 (Fed. Cir. 2021). Rather, “[t]here must be some factual allegations that, when taken as true, articulate why it is plausible that the accused product infringes the patent claim.” *Id.* In accordance with the Federal Circuit’s approach in *Bot M8*, this District Court has first “identif[ied] the critical elements of each of the



1 Asserted Patents and then determin[ed] whether [the plaintiff] has provided specific factual  
 2 allegations to meet those claim elements, placing [the defendant] on notice of what activity is  
 3 being accused of infringement.” *Cyph, Inc. v. Zoom Video Commc’ns, Inc.*, 642 F. Supp. 3d  
 4 1034, 1042 (N.D. Cal. 2022). Courts in this District routinely dismiss claims for patent  
 5 infringement for failing to meet the *Iqbal/Twombly* pleading standard. *See, e.g., Coop. Ent., Inc.*  
 6 *v. Kollektive Tech., Inc.*, No. 5:20-CV-07273-EJD, 2024 WL 420747, at \*5 (N.D. Cal. Feb. 5,  
 7 2024); *Estech Sys. IP, LLC v. Zoom Video Commc’ns, Inc.*, No. 5:24-CV-02528-EJD, 2025 WL  
 8 834497, at \*6 (N.D. Cal. Mar. 17, 2025); *ALD Soc., LLC v. Verkada, Inc.*, 654 F. Supp. 3d 972,  
 9 978 (N.D. Cal. 2023); *e.Digital Corp. v. iBaby Labs, Inc.*, No. 15-CV-05790-JST, 2016 WL  
 10 4427209, at \*5 (N.D. Cal. Aug. 22, 2016); *Atlas IP LLC v. Pac. Gas & Elec. Co.*, No. 15-CV-  
 11 05469-EDL, 2016 WL 1719545, at \*5 (N.D. Cal. Mar. 9, 2016).

12 **B. “Registering . . . By Emulating Human Interactions with a Graphical User**  
 13 **Interface” Is a Critical Step in the Claimed Method**

14 Claim 1 of the ’409 patent (the only claim addressed in the Complaint) describes a method  
 15 of recording virtual conferences using “virtual participant processes.” Virtual participant  
 16 processes are not real human participants, but software programs running on a computer. *See,*  
 17 *e.g.*, ’409 patent at 7:45-47 (“[I]n order to initiate the virtual participant 30 (FIG. 1) a virtual  
 18 machine is spawned and typically executes on a server that is accessible via the Internet.”).  
 19 Claim 1 expressly requires “registering the virtual participant processes with the conferencing  
 20 system as co-participants in the virtual conferences *by emulating human interactions with a*  
 21 *graphical user interface.*” *Id.*, claim 1. The ’409 patent specification explains that this step  
 22 obviated the need to tailor the recording software to the distinct registration mechanisms of  
 23 different videoconference platforms (e.g., Zoom, Microsoft Teams, Google Meet, or Slack  
 24 Huddles). That is because the recording software “interacts with the same user interface of the  
 25 conferencing software 28 as a human user” and thus is “interoperable with versions of  
 26 conferencing software produced by many vendors.” *Id.* at 6:67-7:4. Indeed, when implementing  
 27 the claimed method, “[t]he conferencing software 28 might be unaware that the virtual participant  
 28 30 is an automated computer process rather than a transmitter of human-initiated actions.” *Id.* at

1 7:4-7. The requirement that the virtual participant processes register with the conferencing  
 2 system “by emulating human interactions with a graphical user interface” is thus critical to the  
 3 alleged point of novelty of the claimed invention.

4 This is confirmed by the prosecution history of the ’409 patent, which is a public record  
 5 subject to judicial notice and properly considered in resolving a Rule 12(b)(6) motion. *Lexos*  
 6 *Media*, 722 F. Supp. 3d at 1049. During prosecution, the applicant sought a claim that simply  
 7 required “registering the virtual participant process with the conferencing system as a  
 8 co-participant in the virtual conference” without any limitation on how that registration is done.  
 9 Li Decl., Ex. 3 (Sept. 25, 2016 Specification and Claims) at 21 (claim 1). The Patent Office  
 10 rejected that claim as invalid over the prior art. *Id.*, Ex. 2 (Jan. 23, 2017 Non-Final Rejection) at  
 11 2 (rejecting claim 1). In response, the applicant amended the claim to require the registration to  
 12 be done “by emulating human interactions with a graphical user interface.” *Id.*, Ex. 4 (Feb. 8,  
 13 2017 Amendment) at 2, 7 (amending claim 1). The applicant thus acknowledged, consistent with  
 14 the teachings of the ’409 patent specification, that registering the virtual participant with the  
 15 conferencing system “by emulating human interactions with a graphical user interface” is critical  
 16 to the purported novelty of the claimed invention.

17 **C. Gong Fails to Plausibly Allege That Recall.ai’s Accused Technology Meets the**  
 18 **“Registering” Step of the Claimed Method**

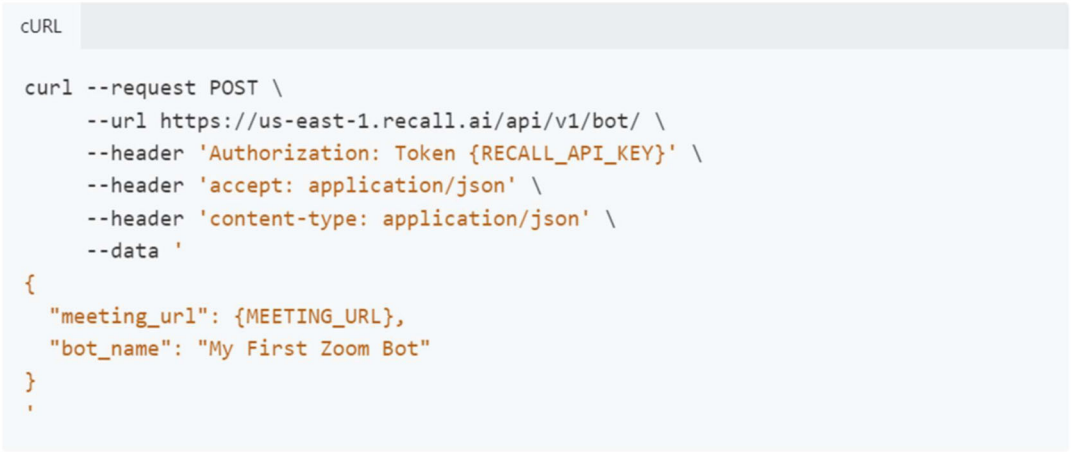
19 Gong alleges infringement of claim 1 based on use of Recall.ai’s API. Dkt. 1 ¶¶ 33-35.  
 20 As detailed below, Gong’s infringement claims must be dismissed because the factual allegations  
 21 in the Complaint do not support a plausible inference that Recall.ai’s API allows users to practice  
 22 a critical element of claim 1—“registering the virtual participant processes with the conferencing  
 23 system...*by emulating human interactions with a graphical user interface.*”

24 Gong’s only statement in the Complaint that directly addresses this claim element is a  
 25 conclusory assertion: “Because the video conferencing software is designed for humans to access  
 26 and use by means of a graphical user interface, Recall.ai’s bots must emulate human interactions  
 27  
 28

1 with a graphical user interface in order to join the video conference.”<sup>4</sup> Not only does Gong  
 2 provide no factual allegations to support that assertion (which alone requires dismissal, *see Bot*  
 3 *M8*, 4 F.4th at 1354), the citations to Recall.ai’s documentation show that it is false.

4 In both the Complaint and the attached claim chart (Ex. B), Gong includes the following  
 5 excerpt from Recall.ai’s website regarding the Zoom platform:

6 Now that your Zoom credentials are configured in the Recall dashboard, you can send a bot to a  
 7 Zoom meeting by calling [Create Bot](#).

8 The screenshot shows a terminal window with a cURL command and a JSON object. The cURL command is: curl --request POST \ --url https://us-east-1.recall.ai/api/v1/bot/ \ --header 'Authorization: Token {RECALL\_API\_KEY}' \ --header 'accept: application/json' \ --header 'content-type: application/json' \ --data '{ "meeting\_url": {MEETING\_URL}, "bot\_name": "My First Zoom Bot" }'. The JSON object is: { "meeting\_url": {MEETING\_URL}, "bot\_name": "My First Zoom Bot" }.

```

cURL

curl --request POST \
  --url https://us-east-1.recall.ai/api/v1/bot/ \
  --header 'Authorization: Token {RECALL_API_KEY}' \
  --header 'accept: application/json' \
  --header 'content-type: application/json' \
  --data '
{
  "meeting_url": {MEETING_URL},
  "bot_name": "My First Zoom Bot"
}
'
```

15 Wait a few moments and the bot will join the call.

17 Dkt. 1 ¶ 41, *id.*, Ex. B at 46. This excerpt makes clear that Recall.ai causes a bot to join a Zoom  
 18 meeting “by calling [Create Bot](#).” “Create Bot” is an API endpoint, which is a specific URL that  
 19 can receive requests from a computer program. That is clear from the example request above,  
 20 which is sent to the “url <https://us-east-1.recall.ai/api/v1/bot/>.” *See also id.* at 43 (citing another  
 21 portion of Recall.ai’s website that states, “With this option the *API* consumers can use the  
 22 existing *Create Bot* & *Delete Bot endpoints*....”).

23 It is important that Recall.ai causes bots to join meetings by sending a request to an API  
 24 endpoint (Create Bot) because such requests cannot be made by a human and do not involve any  
 25 “graphical user interface.” Interacting with an API thus cannot be “emulating *human* interactions  
 26 *with a graphical user interface*”—as required by claim 1 of the ’409 patent. This is clear from

27 \_\_\_\_\_  
 28 <sup>4</sup> Although Gong includes excerpts from Recall.ai’s website, all except the Zoom excerpt  
 discussed below simply stand for the proposition that Recall.ai causes bots to join web  
 conferences—and say nothing about how that is done. *See* Dkt. 1 ¶ 41, *id.*, Ex. B at 45-47.

1 Gong’s own allegations in the Complaint, which acknowledge the difference between a  
2 “graphical user interface” and an “application programming interface” (API):

3 Just as a human might interact with a piece of software using its  
4 *graphical user interface (e.g., by opening the File menu and*  
5 *selecting Save)* Recall.ai’s *application programming interface*  
6 allows a computer program to interact with and invoke Recall.ai’s  
7 software and services (*e.g., by sending a request containing*  
8 *specific pieces of information over the World Wide Web to a*  
9 *specific Recall.ai URL* in order to tell a Recall.ai bot to join a  
10 specific online meeting.

11 Dkt. 1 ¶ 22. Whereas a graphical user interface involves visual indicators—such as a “File menu”  
12 or “Save” button—an application programming interface (API) does not. And that makes sense  
13 because, as Gong acknowledges, a graphical user interface is meant to be used by a human,  
14 whereas an API is meant to be used by a computer program.

15 Gong’s infringement theory appears to be that interacting with an API *is* “emulating  
16 human interactions with a graphical user interface.” See Dkt. 24 at 3 (asserting that “the ’409  
17 patent specifically discloses other techniques for ‘emulating human interactions with a graphical  
18 user interface’ that include... ‘join[ing] conferences as a *machine* would (via an application  
19 programming interface or by executing a function)”). That is an implausible interpretation of the  
20 claim language and cannot preclude dismissal. *ALD*, 654 F. Supp. 3d at 979 (“[T]he Court may  
21 dismiss a complaint prior to claim construction when the complaint rests on an implausible claim  
22 construction.”) (citing *Ottah v. Fiat Chrysler*, 884 F.3d 1135, 1141-42 (Fed. Cir. 2018)). In *ALD*,  
23 the asserted claim required counting the number of “wireless devices” in a camera frame, but the  
24 accused product instead counted the number of people. *Id.* The Court dismissed the infringement  
25 claim on the grounds that “Plaintiff’s implausible construction—construing people as wireless  
26 devices—fails to state a claim for literal infringement.” *Id.* The same reasoning applies in this  
27 case: Gong cannot state a claim for infringement by interpreting “emulating human interactions  
28 with a graphical user interface” to mean interaction with an API—an interface that has no  
“graphical” component and that a human cannot interact with. See also *Atlas IP, LLC v. Exelon*  
*Corp.*, 189 F. Supp. 3d 768, 778 (N.D. Ill. 2016), *aff’d sub nom.*, 686 F. App’x 921 (Fed. Cir.  
2017) (dismissing an infringement claim that depended on construing limitations that required

controlling a plurality of “remotes” to cover accused products that are incapable of controlling multiple remotes); *Contiguity, LLC v. Conduent Bus. Servs., LLC*, No. W-23-CV-00038-XR, 2024 WL 252068, at \*3 (W.D. Tex. Jan. 22, 2024) (dismissing an infringement claim that depended on construing limitations requiring imagery to be collected “at a first location” and “a second location” to be met by images collected at a single location)

The ’409 patent specification confirms the implausibility of Gong’s interpretation. The specification makes clear that “emulating human interactions with a graphical user interface” means emulating the actions that are “conventionally performed by human participants.” *See* ’409 patent at 5:43-47 (“One component of the system 34 is a process referred to as a virtual participant 30, *which emulates certain actions with respect to the conference that are conventionally performed by human participants*”). The specification also makes clear that the “graphical user interface” is the visual interface that is presented to a human participant. *See id.* at 7:53-59 (“The recorder component may be provided with pattern recognition facilities and other known artificial intelligence programs *in order to automate manipulation of the graphical user interface* and the conferencing software 28 or to record and interpret selected portions of *the windows displayed by the graphical user interface*.”) Consistent with that, the specification explains that “[t]o join the conference, the recorder component 32 *emulates a set of mouse clicks, key strokes, and other actions that mimic a human participant joining a virtual conference*” and “interacts with the *same user interface of the conferencing software 28 as a human user*.” *Id.* at 6:65-7:4.

Nothing in the specification suggests that interacting with an API could be “emulating human interactions with a graphical user interface.” Gong cites to three sections of the specification in the Joint Initial Case Management Conference. Dkt. 24 at 3 (citing ’409 patent at 5:60-65, 11:15-18, and 11:10-14). None of those sections supports its construction. The first two sections refer to an “application programming interface” but not specific to how a virtual participant *registers* with the conferencing system. The fact that other processes not related to “registering” the virtual participant rely on APIs does not mean that interacting with an API is “emulating human interactions with a graphical user interface.” Claim 1 only imposes the

1 “emulating” limitation with respect to the “registering” step and does not otherwise foreclose  
2 other types of interaction (such as interaction with an API). The third cited section of the  
3 specification does not refer to APIs at all, and, regardless, expressly states that it is describing  
4 “alternate embodiments” to “using keyboard and mouse emulation.” *Id.* at 11:10-14.

5 In sum, Gong’s only factual allegations regarding how Recall.ai allegedly registers bots  
6 with a conferencing system establishes that Recall.ai does so by interacting with an API, which is  
7 an interface that has no “graphical” component and that a human cannot interact with. Gong’s  
8 only infringement theory thus relies on an implausible interpretation of the claim—interpreting  
9 “emulating human interactions with a graphical user interface” to mean interaction with an API—  
10 and fails to state a claim of infringement under Rule 12(b)(6). *See ALD*, 654 F. Supp. 3d at 979.  
11 The Complaint should therefore be dismissed in its entirety.

## 12 **V. CONCLUSION**

13 For the foregoing reasons, the Court should dismiss Gong’s Complaint in its entirety.  
14 Because each of the grounds for dismissal is a fundamental deficiency that cannot be cured, the  
15 Complaint should be dismissed with prejudice. *Reddy v. Litton Indus., Inc.*, 912 F.2d 291, 296  
16 (9th Cir. 1990) (“It is not an abuse of discretion to deny leave to amend when any proposed  
17 amendment would be futile.”).

18  
19 Dated: June 16, 2025

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28